



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,679	09/29/2003	Mark J. Pettay	PAT-008A	2036
29129	7590	02/26/2010	EXAMINER	
MICHELLE A. ZARINELLI C/O WEST CORPORATION 11808 MIRACLE HILLS DR. MAIL STOP: W11-LEGAL OMAHA, NE 68154			YEN, ERIC L	
			ART UNIT	PAPER NUMBER
			2626	
			NOTIFICATION DATE	DELIVERY MODE
			02/26/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

MAZARINELLI@WEST.COM

Office Action Summary	Application No. 10/673,679	Applicant(s) PETTAY ET AL.	
	Examiner ERIC YEN	Art Unit 2626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 November 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-63 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-63 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. In response to the Office Action mailed 7/29/09, applicant has submitted an amendment filed 11/30/09.

Claims 1, 23, 33, 60-63, have been amended.

Response to Arguments

1. Applicant's arguments with respect to claims 1, 23, 33, 60-63 have been considered but are moot in view of the new ground(s) of rejection.

As per the amended claim language, Young teaches speech recognition systems including confidence levels (paragraph 28) and also where the script is followed at an agent workstation because it is at least obvious that agents that are following a script have some form of reference which tells them to, for example, ask for a destination for a plane flight instead of arbitrarily engaging in small talk, and to interact with the mechanical system, the agent (whether via telephone or computer) must have a workstation (e.g., it's impossible for one person to speak to another over the phone when one of the people does not have a phone [or other equivalent mechanical device]).

Applicant argues that "the claims as a whole have to be addressed", again emphasizing the "as a whole" language (Amendment, page 12) and reviewing the

Art Unit: 2626

examiner's previous arguments directed to "as a whole" (as defined in examiner's interpretation of WL Gore and KSR) as meaning that each and every limitation must be addressed (since the issue in WL Gore was whether one reference teaching values over a range combined with a reference that limits and/or disparages using values in the range over a particular value [which includes the claimed value] taught the claim limitation, which obviously it did not since the second reference when combined with the first reference excluded the use of the claimed value).

Applicant then describes the examiner's motivation statement ("in order to determine whether an agent is successful or not, as described by Shambaugh") as a broad statement to sum up a very specific claim (Amendment, page 13). Applicant describes that the passage cited states "A performance processor may compare sales totals among the agents and select the most successful agent" and that this "has nothing to do with the independent claims" because "there is no statement in the claim that a performance processor may compare sales totals and select the most successful agent" (Amendment, page 13).

Applicant, however, is misstating the requirements to make a rejection under obviousness. Under KSR (previously discussed in the previous office action), it is not applicant's problem that must be addressed anymore. KSR specifically stated that there is no requirement for the prior art to be directed to the exact same problem as what applicant addresses.

The only requirement for combining two references is that there is some motivation to combine, and not that the references must teach applicant's motivation to

Art Unit: 2626

combine and only applicant's motivation to combine. Lack of presence of the cited motivation in the claim language is not enough to disqualify a prior art reference because applicant's claims are directed to what a claimed invention IS or DOES, and not WHY an invention is made of certain parts or performs certain method steps. Applicant cannot simply defeat any and every motivation to combine references simply by not stating any motivation in the claim language.

Shambaugh does teach the use of sales totals to select successful agents in the cited passage, but the same passage also teaches, generally, the selection of successful agents. Whether it be for the purpose of improving the system's/agent's ability to interact comfortably with users or otherwise (in Shambaugh, selecting the most successful agent is a function used to incorporate successful agent's interactions with customers that lead to the agent's success into the rest of the system, at least in Shambaugh's theory, would lead to more widespread successful interactions with users), there is a benefit to adding a function which determines relative success of agents because it determines whether agents are doing something which can improve the system. The claim language addressed by Shambaugh includes "applying a set of action rules to an output of the comparing to direct a quality assurance action to be taken, and wherein the action rules comprise a quality assurance action taken". "Action rules" and "quality assurance action" does not refer back to any of the script compliance analyses in other parts of the limitations. Therefore, the "action rule" and "quality assurance action" is not limited in scope to only whatever applicant intended for those terms to mean. An "action rule" can be read on by a computerized rule telling a system

Art Unit: 2626

to erase data, perform a script compliance analysis, determine successful agents, or even command a lawnmower to mow a lawn. "Actions" given its broadest reasonable interpretation (or any interpretation) cannot on its own be confined to some arbitrary subset not otherwise stated in the claim (i.e., applicant's INTENDED definition).

"Quality assurance action", similarly, need not be confined to "ensuring that agent's follow a script" or whatever applicant may intend the quality assurance action to be.

Specification's and applicant's intent are not to be read into the claims. Given even the plain meaning of "quality assurance action", all that the prior art must teach is that something is done to ensure that the system performs at good quality. The determination of successful agents in Shambaugh (which leads to incorporation of the agents' interactions into the system script) leads to improvements in the system which ensures that the system operates at higher quality. Therefore, the teaching of Shambaugh of selecting a successful agent (which, as taught by Shambaugh, leads to improvement in the system) is something that would motivate one of ordinary skill in the art to combine Garcia and Shambaugh (even if the reason to combine is not applicant's reason to combine).

All that is necessary is that there is some motivation or benefit that would lead one of ordinary skill in the art to combine the references when the references teach the claim limitations given their broadest reasonable interpretation (which is NOT NECESSARILY applicant's interpretation). As long as each and every limitation is addressed and there is SOME MOTIVATION based on some benefit, then the claim is addressed "as a whole" because there is no part of the claim the is not taught by the

Art Unit: 2626

references (i.e., the claims are not addressed “as several parts” but rather in their entirety AS CLAIMED).

As per applicant's argument that the examiner has used a broad statement to sum up a very specific claim (Amendment, page 13). Shambaugh was not applied to teach the entire quoted portion of the claims (“creating... defining... processing the at least one”) but rather only the portion described in the rejection. More importantly, the passage cited in the motivation statement was not the only passage applied to teach the part of the claim that the rejection asserts is taught by Shambaugh.

Therefore, the statement that “the examiner has used a very broad statement to sum up a very specific claim” is false.

Applicant then quotes Ex parte Levengood which states “a statement that modifications of the prior art to meet the claimed invention would have been well within the ordinary skill of the art... because the references relied upon teach that all aspects of the claimed invention were individually known in the art is not sufficient” (Amendment, page 13).

This rule does not apply in this case because, as discussed above, Shambaugh teaches that there is a benefit to incorporating the agent success function in a customer service system. The rule in Ex Parte Levengood relates to rejections where the only assertion is that one of ordinary skill in the art could combine the references. More importantly, the rule no longer applies because KSR has already accepted that simple substitutions and other forms of rejections which do not require motivation statements (but only that combinations could be made to achieve predictable results) are sufficient

Art Unit: 2626

to establish obviousness. Since Ex Parte Levengood predates KSR, the rule is no longer effective law.

Applicant then cites that rejections cannot be sustained by mere conclusory statements (as per KSR) (Amendment, page 14).

As discussed above, there is no mere conclusory statement in the rejection. The portion of Shambaugh applied and the selection of successful agents provides a benefit to the system that would motivate one of ordinary skill in the art to combine the references. The rejection did not simply state “it would have been obvious to combine the references” (i.e. a conclusory statement). The examiner stated that it would have been obvious to combine in order to determine a successful agent, which is a desirable thing to do when providing customer service.

Applicant finally cites In re Kahn directed to the TSM test which, as described in KSR is no longer the only test applied to determine obviousness, and therefore the rule does not apply here either. KSR specifically ruled that application of only the TSM test is too restrictive and ruled that other tests may be used to establish obviousness.

Applicant then addresses Garcia where the rejection addressed “evaluating the at least one voice interaction with at least one automatic speech recognition component adapted to analyze the at least one voice interaction” because “the portion of Garcia that the examiner quotes is not related to and therefore does not obviate the claim”. Applicant states the portion of Garcia states “if voice recognition software is used, a choice is entered based on customer voice response, which must be enabled at the

Art Unit: 2626

customer end” and then proceeds to cite previously cited case law and MPEP sections directed to the “thrust or gist” of the invention” (Amendment, pages 14-15).

Again, the claim language and prior art need not be exactly what applicant intended the claim to mean. Claim language is to be given its broadest reasonable interpretation and if the claim language itself has a scope greater than that which applicant intended, then any prior art teaching the falls within that scope (even if it is not applicant's intended teaching) is properly used to reject the claim.

In the case of Garcia the relevant part of the rejection is:

“conducting at least one voice interaction between the at least one agent and the at least one client, wherein the at least one agent follows the at least one script” (paragraphs 0012 and 0013);

“evaluating the at least one voice interaction with at least one automatic speech recognition component adapted to analyze the at least one voice interaction” (paragraph 0047).

The claim language does not limit the "voice interaction" to only voice interactions from a particular person. The scope of the language includes any voice-based function/action/communication which leads to an interaction between an agent and a client. This can include, among other things, something a client says, something an agent says, something a third party in a conference interaction says, etc. There is no claim language that limits the claim scope to only something an agent says, for example, and therefore, when Garcia teaches that a customer's voice response is recognized by a speech recognizer, a "voice interaction" (spoken communication used

Art Unit: 2626

to interact/communicate with the system) is recognized (i.e. "analyzed", where applicant also does not describe how something is analyzed, and therefore, the scope of analyzed is not limited to anything in particular) with a speech recognizer custom-built to receive speech and interpret what is said ("automatic speech recognition component adapted to analyze the at least one voice interaction").

Therefore, what is taught in Garcia clearly falls within the scope of the claim language and therefore the prior art (particularly Garcia in this case) teaches the claim limitations even if applicant's intended interpretation is not the same. There is more than a simple "thrust or gist" since Garcia clearly teaches performing speech recognition on spoken/voiced data used to interact with a system, which is all that applicant has claimed.

Applicant argues that "throughout the office action the examiner has, in a detailed manner, methodically separated claim elements, given some elements a particular meaning to fit the element or portion of the elements a particular meaning to fit the element or portion of the element to the prior art and has made different claims about the prior art", and in doing so tried to show obviousness when there is no teaching suggestion or motivation (Amendment, page 15).

Again, KSR specifically overruled the TSM test as a requirement in each and every rejection and therefore, the argument has no legal basis. Also, there is no requirement that the examiner address each and every claim limitation with one reference while leaving the claim language entirely intact. The "as a whole" requirement relates to every limitation (whether it be as claimed or parsed into separate

Art Unit: 2626

pieces) to be taught in the prior art references (i.e. that there is no part of the claim entirely missing from the prior art) and NOT to a requirement that one and only one reference must be used to teach each separate claim limitation. Claim limitations may be parsed into different pieces taught by separate prior art references which, when combined, teach the claimed limitation as a whole.

Therefore, the examiner maintains the previous prior art rejections of the previously claimed limitations and presents new rejections directed to the new claim limitations amended into the independent claims.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1 and 23 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Depending on how applicant intended to parse the amended claim language, the new limitation “speech recognition component having a confidence threshold including

Art Unit: 2626

supplying audio files in real time of at least one voice interaction" is not supported as plainly read, and none of pages 12-19 of the Specification support this limitation.

Specifically, as plainly claimed, applicant is stating that a threshold includes supplying audio files which does not logically constitute a "threshold" in any conventional sense. A threshold is simply a quantified reference to be compared with a quantity ascertained by some form of analysis. While it is generally known that speech recognition includes a confidence determination using a numerical determination (e.g., the speech is 70% matched with a grammar entry and this 70% is compared to a minimum threshold of 50% or 80% needed to satisfy the system). However, applicant does not claim that the speech recognition component (in Claims 1 and 23) has a threshold analysis function including supplying audio files but rather claims that the threshold itself has audio files. Since thresholds are only quantified (usually numerical) references claiming that thresholds themselves are anything more than quantified references does not make sense. Applicant's Specification also does not describe that thresholds have audio files that are part of the threshold itself

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1 and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Art Unit: 2626

According to the new matter rejection above, it is therefore also unclear whether applicant meant to claim that a threshold itself includes supplying audio files, since thresholds are conventionally related to comparisons only. Another possible alternative interpretation for the claim language is that the speech recognition has a confidence level threshold analysis function that provides audio files in real time or that the speech recognition component has a separate providing component for supplying audio files. However, as per the plain linguistic meaning of the amended claim language, neither of these interpretations are valid.

For the purposes of applying art, the examiner has interpreted "having a confidence level threshold including supplying audio files in real time of at least one voice interaction" as --having a confidence level threshold-- in accordance with the remaining independent claims that do not include the confusing "including supplying audio files in real time of at least one voice interaction" in amended claims 1 and 23.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10, 12-16, 18, 20, 23-63, are rejected under 35 U.S.C. 103(a) as being unpatentable over Garcia (US 2003/0007612), in view of Shambaugh et al. (US 6,970,821), hereafter Shambaugh, Yuschik (US 6,526,382), and Young et al. (US

Art Unit: 2626

2003/0154072; continuation of 09/535,155, filed 3/24/2000, which incorporates the cited passages), hereafter Young.

As per claim 1, Garcia teaches, “a method for evaluating compliance of at least one agent reading at least one script to at least one client”, the method comprising at least the following:

“conducting at least one voice interaction between the at least one agent and the at least one client, wherein the at least one agent follows the at least one script at an agent workstation” (paragraphs 0012 and 0013; see Response to Arguments, where to be part of a mechanical system the agent needs some form of device to interact with the system [i.e. at least a phone] which can be interpreted as a “workstation”);

“evaluating the at least one voice interaction with at least one automatic speech recognition component adapted to analyze the at least one voice interaction” (paragraph 0047); and

Garcia fails to teach determining whether the at least one agent has adequately followed the at least one script, by dividing the voice interaction into viewable panel-level segments and comparing the panel-level segments to the automatic speech recognition analyzed voice interaction, applying a set of action rules to an output of the comparing to direct a quality assurance action to be taken, and wherein the action rules comprise a quality assurance action taken.

Shambaugh teaches determining whether the at least one agent has adequately followed the at least one script (“compare the script presented to the selected agent with

Art Unit: 2626

the recognized words... used by the agent”, col. 6, lines 4-20), by dividing the voice interaction into viewable panel-level segments (“display an initial portion of the script”, col. 3, lines 53-61; where a portion is put into the screen where the portion of the screen that the portion is displayed on is a “panel”) and comparing the panel-level segments to the automatic speech recognition analyzed voice interaction (“compare the script presented to the selected agent with the recognized words... used by the agent”, col. 6, lines 4-20)

applying a set of action rules to an output of the comparing to direct a quality assurance action to be taken, and wherein the action rules comprise a quality assurance action taken (“scripting system may extend the storyline”, col. 5, lines 28-43; “detect any differences... incorporated into script... incorporate subtleties... parenthetical instructions”, col. 6, lines 4-20; “objective”, col. 6, lines 28-37; where a difference between the script and agent speech is an output of the comparing and also “if there is a difference and if the agent is successful, then add the difference to the script” and “if there is a difference to be added, determine corresponding parenthetical instructions” are rules applied to the difference/output to improve the odds that sales will be successful, which assures quality).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Garcia to include the teaching of Shambaugh of determining whether the at least one agent has adequately followed the at least one script, by dividing the voice interaction into viewable panel-level segments and comparing the panel-level segments to the automatic speech recognition analyzed voice interaction,

Art Unit: 2626

applying a set of action rules to an output of the comparing to direct a quality assurance action to be taken, and wherein the action rules comprise a quality assurance action taken, in order to determine whether an agent is successful or not, as described by Shambaugh (col. 6, lines 5-7).

Garcia, in view of Shambaugh, fail to teach wherein a panel-level time displacement stamp is assigned to each panel.

Yuschik teaches wherein a panel-level time displacement stamp is assigned to each panel (“menu states... and timing for the flow of a dialogue”, col. 5, line 61 – col. 6, line 12; “easy to understand... signal when it is time for the user to respond”, col. 14, lines 1-13).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Garcia, in view of Shambaugh, to include the teaching of Yuschik, in order to provide fluid and productive dialog with a user, as described by Yuschik (col. 14, lines 1-13).

Garcia, in view of Shambaugh and Yuschik, fail to teach wherein the output can include a numerical score indicating a degree to which the at least one agent adequately followed the at least one script, and where the action taken is based on the numerical score And where the automatic speech recognition component has a confidence level threshold.

Young suggests wherein the output can include a numerical score indicating a degree to which the at least one agent adequately followed the at least one script, and where the action taken is based on the numerical score (“score... that measures the

Art Unit: 2626

correspondence of the agent's speech with the provided script", paragraph 37; "readability... overwhelm callers with technical jargon", paragraph 38; where the logical response to a script with overwhelming technical jargon is to modify it, as Shambaugh does)

And where the automatic speech recognition component has a confidence level threshold ("speech recognition system's confidence", paragraph 28; where it is at least obvious that if the system has low confidence in a recognition result that it is discarded instead of accepted, and the point at which the system determines that the result is acceptable is a threshold)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Garcia, in view of Shambaugh and Yuschik, to include the teaching of Young of wherein the output can include a numerical score indicating a degree to which the at least one agent adequately followed the at least one script, and where the action taken is based on the numerical score And where the automatic speech recognition component has a confidence level threshold, in order to ensure that calls are handled consistently in a desired manner, as described by Young (paragraph 3).

As per claim 2, Garcia teaches, "wherein conducting at least one voice interaction includes conducting at least one voice interaction involving a telemarketing agent" (paragraph 0049).

Art Unit: 2626

As per claim 3, Garcia teaches, “wherein conducting at least one voice interaction includes conducting at least one voice interaction governed by at least one script that includes text corresponding to at least one offer of at least one of goods and services” (paragraph 0049).

As per claim 4, Garcia teaches, “wherein conducting at least one voice interaction includes conducting the at least one voice interaction at least in part on at least one communications network” (paragraph 0047).

As per claim 5, Garcia teaches, “wherein conducting at least one voice interaction includes conducting the at least one voice interaction at least in part on a publicly switched telephone network (PSTN)” (paragraph 0045).

As per claim 6, Garcia teaches, “wherein conducting at least one voice interaction includes conducting the at least one voice interaction at least in part on at least one Internet” (paragraph 0029).

As per claim 7, Garcia teaches, “wherein conducting at least one voice interaction includes conducting the at least one voice interaction at least in part on at least one communications network having at least one wireless component” (paragraph 0040).

As per claim 8, Garcia teaches, “wherein conducting at least one voice interaction includes conducting at least one telephone call “ (paragraph 0040).

As per claim 9, Garcia teaches, “wherein conducting at least one voice interaction includes conducting at least one telephone call that is initiated by the at least one client” (paragraph 0043).

As per claim 10, Garcia teaches, “wherein conducting at least one voice interaction includes conducting at least one telephone call that is initiated by an entity other than the at least one client” (paragraph 0046).

As per claim 12, Garcia teaches, “further comprising performing at least one action based upon at least one result of the evaluating of the at least one voice interaction” (paragraph 0047).

As per claim 13, Garcia teaches, “wherein performing at least one action includes transmitting at least one signal to the at least one agent” (paragraph 0048).

As per claim 14, Garcia teaches, “wherein performing at least one action includes transmitting at least one signal to at least one reviewing authority” (paragraph 0049).

As per claim 15, Garcia teaches, “wherein performing at least one action includes making at least one entry in at least one script compliance incentive system” (paragraph 0012).

As per claim 16, Garcia, in view of Shambaugh and Yuschik, fail to teach further comprising reviewing at least one determination of whether the at least one agent has adequately followed the at least one script.

Young suggests further comprising reviewing at least one determination of whether the at least one agent has adequately followed the at least one script (“score... that measures the correspondence of the agent’s speech with the provided script”, paragraph 37; “readability... overwhelm callers with technical jargon”, paragraph 38; where the logical response to a script with overwhelming technical jargon is to modify it, as Shambaugh does)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Garcia, in view of Shambaugh and Yuschik, to include the teaching of Young of further comprising reviewing at least one determination of whether the at least one agent has adequately followed the at least one script, in order to ensure that calls are handled consistently in a desired manner, as described by Young (paragraph 3).

As per claim 18, Garcia teaches, “wherein evaluating the at least one voice interaction includes evaluating a plurality of panels” (paragraph 0049).

As per claim 20, Garcia teaches “further comprising comparing data representing an actual duration of at least one interaction, wherein the at least one agent reads at least one script to the at least one client, to data representing an expected duration parameter associated with the at least one interaction” (paragraph 0054).

As per claims 23-63, they are interpreted and thus rejected for the same reasons set forth in the rejection of claims 1-10, 12-16, 18 and 20.

1. Claims 11, 17, 19, 21, 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Garcia (2003/0007612), in view of Shambaugh, Yuschik, and Young, as applied to claim 1 above, and further in view of Rtischev et al. (US 5,634,086).

As per claim 11, Garcia teaches, standard voice interaction IVR and voice recognition is used to automatically routing the call (Paragraphs 0044 and 0047). Garcia, in view of Shambaugh and Yuschik, do not explicitly teach, “wherein evaluating the at least one interaction includes at least the following: converting the at least one voice interaction into at least one digital signal comprising at least one spectral

Art Unit: 2626

representation of the at least one voice interaction, comparing the at least one digital signal to at least one reference standard that includes at least one known vocabulary, and matching the at least one digital signal to at least one of words and phrases contained in the at least one reference standard". However, Rtschev teaches, "wherein evaluating the at least one interaction includes at least the following: converting the at least one voice interaction into at least one digital signal comprising at least one spectral representation of the at least one voice interaction, comparing the at least one digital signal to at least one reference standard that includes at least one known vocabulary, and matching the at least one digital signal to at least one of words and phrases contained in the at least one reference standard" (col. 1, lines 44-54; col. 4, lines 51-58; col. 5, lines 4-27). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to use a well-known voice recognizer as teaches by Rtschev in the invention of Garcia, in view of Shambaugh and Yuschik and Young, because Rtschev teaches his invention provides for real-time conversation between the system and the user (col. 3, line 66 to col. 4, line 2).

As per claim 17 and 19, Garcia, in view of Shambaugh and Yuschik and Young, do not explicitly teach, "script includes defining at least one score assigned by the at least one automatic speech recognition component". However, Rtschev teaches, "script includes defining at least one score assigned by the at least one automatic speech recognition component" (col. 5, lines 47-67). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use Rtschev's teaching in the invention of Garcia, in view of Shambaugh and Yuschik and Young, because

Art Unit: 2626

Rtschev teaches his invention provides for real-time conversation between the system and the user (col. 3, line 66 to col. 4, line 2).

As per claims 21 and 22, Garcia, in view of Shambaugh and Yuschik and Young, do not explicitly teach, “a comparison of data representing an actual duration of the at least one interaction to data representing an expected duration parameter associated with the at least one interaction”. However, Rtschev teaches, “a comparison of data representing an actual duration of the at least one interaction to data representing an expected duration parameter associated with the at least one interaction” (col. 9, lines 1-22). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use Rtschev’s teaching in the invention of Garcia, in view of Shambaugh and Yuschik and Young, because Rtschev teaches his invention provides for real-time conversation between the system and the user (col. 3, line 66 to col. 4, line 2).

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

Art Unit: 2626

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ERIC YEN whose telephone number is (571)272-4249. The examiner can normally be reached on M-F 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil can be reached on 571-272-7602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number: 10/673,679

Page 23

Art Unit: 2626

EY 2/18/10

/Richemond Dorvil/

Supervisory Patent Examiner, Art Unit 2626